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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,039	10/07/2003	Theodore F. Rivera	RSW920030158US1	5277

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EXAMINER
MEHRMANESH, ELMIRA

ART UNIT	PAPER NUMBER
2113	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>26 February 2007</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-16</u> is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-16</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>07 October 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some *　c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

This action is in response to an amendment filed on February 26, 2007 for the

application of Rivera et al., for a "System and method for defect projection in transaction

management in a target computer environment" filed October 7, 2003.

Claims 1-16 are presented for examination.

Claims 1 and 9 have been amended.

Claim 17 has been cancelled.

Claims 1-16 are rejected under 35 USC § 102.

Claim Rejections - 35 USC § 101

In view of the Applicant's argument, the rejection of claims 1 and 9 under 35 USC

§ 101 has been withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Siegel

et al. (U.S. Patent No. 5,548,718).

As per claim 1, Siegel discloses a method for assessing the probability of

transaction success of a business transaction that will interact with one or more

software applications in a target computer environment (col. 1, lines 39-48), the method

comprising the steps of:

gathering a plurality of defect data items (Fig. 3, element 312) corresponding to

the first software application (col. 4, lines 45-47, *failure data, failure database*) relative to

a specific business transaction in a target computer environment (col. 5, lines 1-16)

and for each of item of the gathered defect data (col. 4, lines 45-47, *failure data,*

failure database), generating an item-specific predicted business transaction failure rate

(col. 5, lines 53-58) based on the defect data items (Fig. 5, element 502, *Hazard Rate*)

combining each item-specific predicted business transaction failure rate (col. 4,

lines 60-64) so as to generate a combined business transaction failure rate within the

computer environment (Fig. 5 and col. 5, lines 52-67 through col. 6, lines 1-24, *wherein*

Siegel discloses the process of generating a hits-to-failure metrics and hazard rate)

and generating an output indicating the combined business transaction failure

rate within the computer environment (Fig. 5).

As per claim 2, Siegel discloses wherein the gathered defect data includes unit

test data (col. 5, lines 7-17) and (Fig. 3, element 304, *Preferred Automated Testing*

System, ATS).

As per claim 3, Siegel discloses wherein the gathered defect data includes functional test data (col. 5, lines 7-17) and (Fig. 3, element 304, *Preferred Automated Testing System, ATS*).

As per claim 4, Siegel discloses wherein the gathered defect data includes system test data (col. 5, lines 7-17) and (Fig. 3, element 304, *Preferred Automated Testing System, ATS*).

As per claim 5, Siegel discloses wherein the gathered defect data includes translation test data (col. 5, lines 7-17) and (Fig. 3, element 304, *Preferred Automated Testing System, ATS*).

As per claim 6, Siegel discloses wherein the gathered defect data includes performance test data (col. 5, lines 7-17) and (Fig. 3, element 304, *Preferred Automated Testing System, ATS*).

As per claim 7, Siegel discloses wherein the gathered defect data includes integration test data (col. 5, lines 7-17) and (Fig. 3, element 304, *Preferred Automated Testing System, ATS*).

As per claim 8, Siegel discloses further comprising the step of outputting the predicted transaction failure rate (Fig. 5).

As per claim 9, Siegel discloses a system for assessing the probability of business transaction success that will interact with one or more software applications in a target computer environment (col. 1, lines 39-48), the system comprising:

a logic element configured to gatherer a plurality of defect data items corresponding to the first software application (col. 5, lines 7-17, *failure data*) and (Fig. 3, element 312)

a logic element (Fig. 3, element 302) configured to generate an item-specific predicted business transaction failure rate (Fig. 5, element 502, *Hazard Rate*) based on the defect data items relative to a specific business transaction in a target computer environment for each of item of the gathered defect data (col. 5, lines 53-58)

a logic element configured to combine each item-specific predicted business transaction failure rate (col. 4, lines 60-64) so as to generate a combined business transaction failure rate within the computer environment (Fig. 5 and col. 5, lines 52-67 through col. 6, lines 1-24, *wherein Siegel discloses the process of generating a hits-to-failure metrics and hazard rate*)

a circuit configured to generate an output that indicates the combined business transaction failure rate within the computer environment (Fig. 3 and 6).

As per claim 10, Siegel discloses wherein the gathered defect data includes unit test data (col. 5, lines 7-17) and (Fig. 3, element 304, *Preferred Automated Testing System, ATS*).

As per claim 11, Siegel discloses wherein the gathered defect data includes functional test data (col. 5, lines 7-17) and (Fig. 3, element 304, *Preferred Automated Testing System, ATS*).

As per claim 12, Siegel discloses wherein the gathered defect data includes system test data (col. 5, lines 7-17) and (Fig. 3, element 304, *Preferred Automated Testing System, ATS*).

As per claim 13, Siegel discloses wherein the gathered defect data includes translation test data (col. 5, lines 7-17) and (Fig. 3, element 304, *Preferred Automated Testing System, ATS*).

As per claim 14, Siegel discloses wherein the gathered defect data includes performance test data (col. 5, lines 7-17) and (Fig. 3, element 304, *Preferred Automated Testing System, ATS*).

As per claim 15, Siegel discloses wherein the gathered defect data includes integration test data (col. 5, lines 7-17) and (Fig. 3, element 304, *Preferred Automated Testing System, ATS*).

As per claim 16, Siegel discloses wherein the system further outputs the predicted business transaction failure rate (Fig. 5).

Response to Arguments

Applicant's arguments see pages 6-9, filed February 26, 2007 with respect to the rejection(s) of claim(s) 1-16 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made over Siegel et al. (U.S. Patent No. 5,548,718). Refer to the corresponding section of the claim analysis for details.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1 .136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1 .136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elmira Mehrmanesh whose telephone number is (571) 272-5531. The examiner can normally be reached on 9-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert W. Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BEAUSOLIEL
PATENT EXAMINER
ART UNIT 2100